THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.23025 OF 2005

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ORDER:

The petitioner claims to be a member of the 6th respondent - Choutapalli Primary Agricultural Co-operative Society. The election to the Managing Committee of the Society was conducted on 22.10.2005, in which the petitioner was elected as a Director from Ward No.3. It is stated that on 23.10.2005, when the election to the office bearers was held, he filed his nomination for the post of the President and the same was accepted at 10.45 a.m. He claims that his nomination being the only nomination received for the post of the President, the 5th respondent - Election Officer, issued proceedings dated 23.10.2005 declaring the petitioner elected as the President unanimously and the same was displayed on the notice board. However, he alleges that on the same day at 3.30 p.m. the 5th respondent-Election Officer due to political intervention, removed the said proceedings from the notice board. Since the members gathered at the premises protested against the said action, a law and order problem was created and the Circle Inspector of Police, Nandigam Police Station visited the premises, and on the next day i.e., 24.10.2005, the Mandal Revenue Officer, Veerulapadu conducted enquiry and submitted his report to the election authority i.e., District Collector, Krishna.

It is further alleged that though he was validly elected as the President, the 5th respondent - Election Officer, did not hand over to him the records of the Society. The petitioner also apprehends that at the instance of the rival group, the 5th respondent is likely to conduct elections afresh to the post of the President and Vice President. Hence, this writ petition seeking a declaration that the petitioner is validly elected as the President, and consequently, to direct the respondents to hand over the records pertaining to the 6th respondent-Society to the petitioner. The petitioner also seeks a direction to the respondents not to conduct fresh elections.

The Divisional Co-operative Officer, Vijayawada, filed a counter-affidavit, in which the fact that the writ petitioner was elected as Director from Ward No.3 has not been

disputed. It is also admitted that the writ petitioner filed his nomination on 23.10.2005 at 10.45 a.m. for the post of Presdient and that one Nunna Koteswara Rao, who was elected as Director from 12th Constituency filed his nomination at 10.30 a.m., to the Post of Vice President. It is stated that at the time of scrutiny, all the said nominations were found valid and since there were no other nominations, the 5th respondent - Election Officer declared the petitioner as well as Nunna Koteswara Rao, elected unanimously for the posts of President and Vice President respectively and published the same in the notice board of the Society in the form prescribed under Rule 12(12)(b) of the A.P. Co-operative Societies Rules, 1964. As per the report of the Election Officer there was a quorum of seven members on 23.10.2005, however, the Election Officer could not take their signatures. It is further stated that at 2.30 p.m. some directors approached the 5th respondent and demanded him to receive their nominations, however, since the stipulated time for receiving the nominations was already over, the 5th respondent refused. The allegation that at the instance of the rival group, the Election Officer removed the declaration pasted on the notice board has been denied and it is stated that since the signatures of the members who formed quorum were not obtained in the minutes book and since there was a mistake in the form published by the Election Officer, the form was removed from the notice board and the Election Officer again re-pasted it after rectification. It is explained that the records could not be handed over to the elected President immediately, since the eight members including the elected Vice President, Nunna Koteswara Rao, denied their presence and filed a representation stating that the Election Officer did not accept the nominations since there was no quorum. In the circumstances, the minutes book was kept in safe custody so as to avoid tampering of records. The representation submitted by the other members was forwarded to the Assistant Registrar (Consumers) and Assistant Registrar (Office) for enquiry and they having conducted necessary enquiry, submitted a report dated 9.11.2005 stating that there was no evidence of quorum as the Election Officer did not obtain signatures, and therefore, it is necessary to conduct fresh elections to the office bearers to avoid ambiguity. Hence, the claim of the petitioner is untenable, and the relief as prayed for cannot be granted.

Subsequently, Nunna Koteswara Rao, claiming to be Vice President, got himself impleaded as respondent No.8 to the writ petition, and stated that he was elected as Vice President on 23.10.2005, and on the same day, the petitioner was also elected

as the President of the Society. It is further pleaded that the other group belonging to one Sri K.Venkata Appa Rao, forcibly made him to sign in the representation given to the District Collector and that he was not aware of the contents of the said representation.

Six other members got themselves impleaded as respondents stating that all of them were elected as Directors from Ward Nos.1, 7,8,10, 13 and 11 of the 6th respondent-Society. It is further stated that on 22.10.2005, the 5th respondent issued notice in Form No.XIII for holding elections to the posts of office bearers of the Managing Committee on 23.10.2005, and when the respondents, six in number, reached the Office of the Society, there was a large gathering in front of the Office of the Society, and they were prevented from entering into the Office of the Society. With great difficulty they could enter the premises and one Guduru Pitchaiah, the 12th respondent herein, filed nomination for the post of the President of the Society. The 7th respondent filed nomination for the post of Vice President. However, the 5th respondent - Election Officer did not receive their nominations. The plea of the respondents that there was quorum on 23.10.2005 in the fore-noon was denied and it was contended that there was no election, and as such, the claim of the writ petitioner that he was unanimously elected as the President is not correct.

The writ petitioner filed affidavit in-reply disputing the version of the respondents and reiterating that there was required quorum on 23.10.205 and that the petitioner as well as Nunna Koteswara Rao were unanimously elected to the post of the President and Vice President respectively.

I have heard the learned counsel for both the parties and perused the material on record.

A perusal of sub-rule (12) of Rule 22 of the A.P. Co-operative Society Rules, 1964 (for short “the Rules”), as amended under G.O.Ms.No.223, Agriculture and Co-operation (Co-op.IV) Department, dated 27.06.2005 shows that as soon as the members of the managing committee have been elected, the Election Officer shall convene the meeting of the newly constituted managing committee for the purpose of election of the President, Vice President, Chairman or Vice Chairman, Secretary or other Office bearers of the society by whatever name they are called. The quorum for the meeting of the newly constituted managing committee for the purpose of

election of the office bearers shall be the majority of the members of the managing committee. If there is no quorum, the Election Officer shall adjourn the meeting to the next day and in the adjourned meeting also if there is no quorum, the members present shall constitute the quorum.

In the case on hand, since 13 Directors were elected to the managing committee of the 6th respondent-society, the majority shall be seven members. The specific case of the petitioner is that on 23.10.2005 when the newly constituted managing committee was convened, seven members were present and since there was a valid quorum, the Election Officer received his nomination for the post of the President as well as the nomination of one Nunna Koteswara Rao for the post of the Vice President, and both of them were declared elected unanimously for the posts of President and Vice President, respectively. The said version of the petitioner has been corroborated in all respects by the Divisional Co-operative Officer, Vijayawada, who in his counter-affidavit has stated that as per the report of the Election Officer there was a quorum of seven members on 23.10.2005. However, the fact remains that the signatures of the members who were present on 23.10.2005 could not be obtained by the Election Officer in the minutes' book, and therefore, there was no evidence of quorum. That apart, subsequently eight elected members including Nunna Koteswara Rao, gave a report to the Divisional Co-operative Officer, Vijayawada, denying their presence on 23.10.2005 and stating that there was no quorum on that day.

Having regard to the facts and circumstances, the only question that arises for consideration, is whether there was a valid quorum on 23.10.2005 for the purpose of election to the office bearers. Admittedly, the signatures of the members who allegedly formed quorum on 23.10.2005 were not obtained by the Election Officer and there was no other evidence to establish their presence on that day. That apart, on the same day eight members, including Nunna Koteswara Rao and Guduri Pitchaiah, who were allegedly present on 23.10.2005 gave a report to the District Collector stating that their nominations were not accepted by the Election Officer on the ground that there was no quorum. In pursuance of the said representation, an enquiry was conducted by the Assistant Registrar (Consumers) and Assistant Registrar (Office). Seven elected members attended the said enquiry and five persons stated that though two other persons by name Nunna Koteswara Rao and Guduri Pitchaiah filed nominations for the posts of President and Vice President,

Election Officer did not give any receipt and declared the writ petitioner and Nunna Koteswara Rao as President and Vice President, respectively. Another person by name Y. Satyanarayana deposed that he had gone on agricultural work and was not aware of what happened after the nominations were filed. Similarly another person by name Pallepogu Goverdanamma deposed that though she attended along with other seven persons, but due to disturbances that took place, she had gone out and she did not know anything about the election. All the said seven persons requested for conduct of fresh elections. Nunna Koteswara Rao who was declared as Vice President did not attend the enquiry. Accordingly, an enquiry report dated 9.11.2005 was submitted proposing fresh elections to the office bearers in view of the ambiguity with regard to the required quorum.

The above facts, particularly the enquiry report dated 9.11.2005, show that seven out of 13 members attended the enquiry and requested for conduct of fresh elections. That itself shows that there was no valid quorum for convening the meeting for conduct of elections to the office bearers. That apart, one K. Venkata Appa Rao, one of the elected Directors, who got himself impleaded as respondent No.7 to this Writ Petition, in his affidavit, stated that no meeting was conducted on 23.10.2005, as pleaded by the petitioner. That apart, six other persons belonging to the same rival group also got themselves impleaded as respondents to this writ petition and pleaded on the same lines stating that no election was conducted for office bearers on 23.10.2005. In the light of the stand taken by the seven elected Directors, who are all parties to this writ petition, it is clear that there was no valid quorum on 23.10.2005. Even if the version of Nunna Koteswara Rao, who got himself impleaded as respondent No.8 and supported the writ petitioner, is taken into consideration, their group consists of only six members. In the circumstances, and particularly keeping in view the enquiry report dated 9.11.2005, I am not inclined to grant Mandamus as prayed for. Any such direction not to conduct fresh election would run contrary to the mandatory provisions of the statute, since the petitioner failed to make out any case to establish that there was a valid quorum on 23.10.2005.

The writ petition is accordingly dismissed. No costs.

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(G. ROHINI, J.)

March 2, 2006.

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.23025 OF 2005

2nd March, 2006.

Between:

Maddineni Ramakrishna Prasad. .. Petitioner.

And

The Commisioner for Co-operatiion,

Registrar of Co-operative societies,

Andhra Pradesh, "Gruha Kalpa",

Hyderabad and five others. .. Respondents.